



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced for Lok Sabha on 6th December, 1991:—

BILL No. 82 OF 1991

A Bill to provide for recognition of public interest litigations and for matters connected therewith

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Interest Litigation Act, 1991. Short title, extent and commencement.
2. It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
 - (a) "Court" means any court in India including the Supreme Court of India, High Courts, revenue Courts and Tribunals;
 - (b) "Judge" means a presiding officer of the Court;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "public interest litigation" means a case arising out of a petition submitted to Court personally or by post by a petitioner narrating a public or a private grievance for the consideration of the Court.

Registration of public interest litigation.

3. If any court receives a public interest litigation from any Indian citizen, the subject matter of which is within the jurisdiction of that Court, the Court shall order the registration of the public interest litigation in a register to be maintained in the manner to be prescribed.

Examination of petitioner.

4. The Court shall issue summons to the petitioner, whose petition has been registered under section 3, to appear before the Court and if the petitioner express his inability to appear before the Court, the Judge shall appoint a Commission to examine the petitioner at the place of his residence.

Court to determine retention/deletion of public interest litigation.

5. The Court, after receiving the report of the Commissioner and upon making such inquiry as it deems fit may either order that the public interest litigation be retained or deleted from the register maintained under section 3.

Legal assistance to petitioners.

6. If the public interest litigation is retained under section 5, the Court shall recommend the case—

(a) to the appropriate authority under the Legal Services Authorities Act, 1987, for legal assistance to the petitioner, who is entitled to receive such assistance under section 12 of the Legal Services Authorities Act, 1987.

39 of 1987.

(b) to the Central Government for free legal assistance to the petitioner, who is not entitled to receive free assistance under Legal Services Authorities Act, 1987, in presenting the case before the court.

Power to make rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(a) the form and the manner in which the register under section 3 shall be maintained;

(b) matters relating to the appointment of Commission under section 4;

(c) guidelines for retaining and deleting public interest litigations from the register under section 5;

(d) any other matters which is required to be prescribed, or may be prescribed.

STATEMENT OF OBJECTS AND REASONS

A category of litigation known as public interest litigation has recently developed in this country to a considerable extent. The precedent of admitting and entertaining this category of litigation was first established by the Supreme Court of India. Even informal letters written by citizens to the Supreme Court are treated as Writ Petitions and reliefs are granted on issues of public importance.

Taking the clue from the Supreme Court, people have now started writing letters to the Supreme Court and other Courts in the country. Courts have their own procedure, laid down by the rules, to entertain and try various types of cases. As far as public interest litigation is concerned, there is no law on the subject. Critics strongly oppose the system of entertaining public interest litigations as they are entertained by the Judges disregarding the rules of the procedure.

As the objective of the public interest litigation is laudable and at the same time the category of litigation which has the potential of serving social causes should not be discarded as being contrary to the rules of Courts, a law on the subject is the need of the hour.

The Bill provides for the entertainment of the public interest litigations by all types of courts including Supreme Court of India, High Courts, revenue Courts and Tribunals so as to recognise the system of public interest litigation.

Hence this Bill.

NEW DELHI;

P. VALLAL PERUMAN

July 11, 1991.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for appointment of the Commission by the Courts to examine the petitioner. Clause 6 provides for recommending the cases of public interest litigation to the appropriate authorities under the Legal Services Authorities Act, 1987 or to the Central Government for providing free legal assistance to the petitioners.

The Bill, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India, which cannot be estimated at this stage. However, it is likely to involve an annual recurring expenditure of about rupees three lakhs.

No non-recurring expenditure is likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 167 OF 1991

A Bill to provide for recognition of all Scheduled Castes and Scheduled Tribes welfare associations and to provide facilities to them.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Castes and Scheduled Tribes (Recognition of Welfare Associations) Act, 1991.

Short
title
and
extent.

(2) It extends to the whole of India.

2. In this Act, 'association' means the Scheduled Castes and Scheduled Tribes welfare association formed in any public sector unit or private sector unit or in the offices both under the Central and State Governments.

Defini-
tion.

3. Notwithstanding anything contained in any other law for the time being in force, all associations which apply to the Central Government for recognition, shall be duly recognised by the Central Government and shall be equated at par with the recognised trade unions.

Recogni-
tion of
Sche-
duled
Castes
and
Sche-
duled
Tribes
Welfare
Associa-
tions.

Facilities to recognised associations.

4. All the recognised associations shall be provided with free accommodation, free electricity and water, office furniture and office stationery upto rupees two hundred and fifty per month by the Central Government.

STATEMENT OF OBJECTS AND REASONS

There are many registered Scheduled Castes/Scheduled Tribes welfare associations in the country with the sole motive of representing for the legitimate and genuine interests of the members belonging to the Scheduled Castes/Scheduled Tribes communities. Since the said associations are not recognised and thus deprived of a legal status, they are not in a position to function effectively to cater to the needs of these down-trodden community people.

In the institutions under Central/State Governments and Public/private sector industries and undertakings, only the recognised trade unions are involved in the participation of talks between the management and employees and the grievances of the Scheduled Castes/Scheduled Tribes people are also expected to be represented only by the unions.

In practice, the trade unions do hesitate to take up the grievances of Scheduled Castes/Scheduled Tribes with the management for obvious reasons and due to their differences on the Government's reservation policy. Majority of the trade unions are against the Government's policy of reservation to Scheduled Castes/Scheduled Tribes in educational institutions and in Government services.

Although the Government policy provides for many privileges and rights to the Scheduled Castes/Scheduled Tribes, they are not being given to them by the management in many cases and for want of recognition, these associations are not able to represent to the management their grievances nor the trade unions take them up.

This problem can be over-come only by recognising the Scheduled Castes/Scheduled Tribes welfare associations and placing them at par with the recognised trade unions.

The representatives of the associations should be associated in all the meetings held by the management with the employees in respect of all matters governing the service conditions and other union activities, etc.

The associations have not, so far, been provided with any essential facilities for their day-to-day functioning. They should, therefore, be provided with free accommodation, electricity, water, furniture, stationery, etc.

Hence this Bill.

NEW DELHI:
July 11, 1991.

P. VALLAL PERUMAN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government shall provide free accommodation, free electricity and water, office furniture and office stationery upto rupees two hundred and fifty per month to the Scheduled Castes and Scheduled Tribes welfare associations. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

An annual recurring expenditure of about rupees twenty-five lakhs is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees twenty lakhs is also likely to be involved.

BILL NO. 167 OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.

Short
title.

2. After article 16 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new
article
16A.

“16(A). (1) There shall be equality of opportunity for all citizens in the matter of acquiring a house.

Equality
of opportunity in
matter of
acquiring
houses.

(2) No citizen shall, on grounds only of religion, caste, sex, descent, place of birth or residence or any of them, be ineligible for, or discriminated against in respect of, acquiring a house.

(3) Every citizen who is unable to acquire a house shall be provided with a house by the State in such manner as Parliament may by law provide”.

STATEMENT OF OBJECTS AND REASONS

The Preamble to the Constitution of India provides for the creation of a society enjoying social, economic and political justice. But in reality only rich persons enjoy all comforts of life and poor people suffer from want of minimum needs required to lead a dignified life. A large number of our population do not own a house or they do not have means to acquire a house. Our country being a welfare State should take up the responsibility in providing the basic infrastructure to all citizens to acquire houses and in case citizens are not able to acquire houses themselves, it should be the responsibility of the State to provide them with houses.

The Bill accordingly, seeks to amend the Constitution with a view to fulfill the above objective.

NEW DELHI;
August 2, 1991.

SUDHIR GIRI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that there shall be equality of opportunity for all citizens in acquiring house. It may be in the form of loan, assistance and subsidy and provision of certain other infrastructure required for acquiring houses. It further provides that the State shall provide houses to citizens who are not able to acquire houses themselves. The number of homeless people in our country is not yet known correctly. As the Parliament has been authorised to decide the manner of provision of houses, the exact amount of expenditure to be incurred in this connection will be determined by law to be made by the Parliament. However, at the initial stage, an amount of non-recurring expenditure to the tune of rupees two crore may be incurred from the Consolidated Fund of India.

BILL No. 135 OF 1991

A Bill to provide for employment to all adult citizens by engaging them in nation building activities and to provide for their welfare.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title,
extent
and com-
mence-
ment.

1. (1) This Act may be called the Employment Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-
tion.

2. In this Act, unless the context otherwise requires, 'State' includes the Government of India and the Government of a State and all local or other authorities under the control of Government of India or of a State.

Employ-
ment.

3. (1) The Central Government shall frame a scheme to provide employment to all adult citizens, who are unemployed on the date of coming into force of this Act.

(2) Such citizens shall be engaged in such nation building activities as may be recognised by the State from time to time and they shall be entitled to guaranteed minimum wages so as to ensure them adequate means of livelihood:

Provided that wages payable under this section shall be subject to quality and quantity of work done by an employee.

(3) A citizen who has not been provided with employment shall be entitled to unemployment allowance at the rate to be fixed by the Central Government.

4. (1) There shall be constituted a fund by the Central Government for the welfare of citizens who have been provided with employment under this Act.

Constitution of fund for welfare of employees.

(2) The Central Government and the State Government shall contribute to the fund in such ratio as may be prescribed.

5. The State shall, out of the fund constituted under section 4, provide employees and their families with medical care, maternity benefits, education free of cost and shall also provide one dwelling unit to every employee according to his requirements either on rent or lease or cost basis.

Welfare of employees.

Explanation.—For the purposes of this section, the expression ‘family’ means husband, wife and dependent children.

6. All citizens who have been provided with employment under this Act shall superannuate at the age of sixty years and they shall be entitled to pension at a rate to be fixed by the Central Government.

Pension.

7. (1) Every citizen, who has been provided with employment under this Act shall, maintain an employment-cum-identity book wherein all particulars relating to his employment, pension and other benefits shall be entered from time to time in such manner as may be prescribed.

Employment-cum-identity book.

(2) If any citizen does not perform duty assigned to him properly, an entry to that effect shall be made in his employment-cum-identity book.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Unemployment is one of the biggest challenges that our country is facing today. Lakhs of unemployed persons are registered with Employment Exchanges. Although provision of employment is one of the Directive Principles of State Policy, which are fundamental in the governance of the country the Government is not bound to give employment to all citizens as these provisions are not enforceable.

At present, it is not mandatory for the State to give assistance to any citizen in the shape of employment or assist any citizen in his profession, occupation, trade or business. Every citizen has a right to acquire means to fulfill his and his family's minimum needs of food, clothing, housing, health care and education. To get these minimum necessities of life, the State should come forward to assist the citizens in getting employment.

The citizens should be actively engaged in nation building activities and they should be paid adequate wages for that. By this the citizens will get employment and on the other hand the economy of the country will also improve. Provision for payment of unemployment allowance to citizens who have not been provided employment, has also been made in the Bill.

The Bill seeks to achieve the above objectives.

New Delhi;
August 9, 1991.

ANADI CHARAN DAS

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the State shall guarantee employment to all adult citizens failing which the State shall pay unemployment allowance at a rate to be fixed by the Central Government. Clause 4 provides for the constitution of a fund for the welfare of the employees to which the Central Government and the State Governments shall contribute. Clause 6 provides that all citizens who attain the age of 60 years shall be entitled to receive pension.

The Central Government has to incur expenditure from the Consolidated Fund of India in respect of provision of employment, unemployment allowance and pension, etc. in respect of Union territories. The Central Government has to assist State Governments also for implementing the provisions of the Bill. It is estimated that an annual recurring expenditure of about rupees ten thousand crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one thousand crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of administrative details only and as such the delegation of legislative power is of a normal character.

BILL NO. 136 OF 1991

A Bill to provide for ceiling on wages of a family and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title
and
extent.

1. (1) This Act may be called the Ceiling on Wages Act, 1991.

(2) It extends to the whole of India.

Appli-
cation
of the
Act.

2. This Act shall apply to employees of the Central Government, public sector undertakings or establishments or organisations under the control of the Central Government or Union territory administrations or private sector.

Defini-
tion.

3. In this Act, unless the context otherwise requires, 'family' means husband, wife and minor children.

Ceiling
on
wages.

4. (1) Notwithstanding anything contained in any other law for the time being in force, the minimum and maximum wages of an employee or of his family shall be rupees one thousand and rupees five thousand per month, respectively.

(2) If the wages of family of an employee exceed rupees five thousand per month, the amount in excess of rupees five thousand shall be deposited by the head of the family in a nationalised bank which shall be refunded to the employee on his attaining the age of superannuation or on cessation of his employment or to his legal heir in case of death of the employee.

5. (1) It shall be the duty of every employer to deduct every month twenty per cent. of wages, payable to an employee, as compulsory savings before the wages for that month are paid to him.

Compul-
sory
savings.

(2) The amount so collected shall be deposited in a nationalised bank and shall be returned to the employee with interest accrued thereon on his attaining the age of superannuation or on cessation of employment or to his legal heir in case the employee dies while in service or for such other purposes as may be prescribed.

6. Every employee shall submit a return every year with his employer, containing particulars about the wages earned by the members of his or her family.

Filing of
returns
by em-
ployees.

7. (1) If any employer contravenes the provisions of sections 4 and 5, he shall be punishable with fine which may extend to rupee ten thousand.

Punish-
ment.

(2) If any employee files a false return with his employer, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to rupees ten thousand or with both.

8. The Central Government may, by notification in the Official Gazette, make rule for carrying out the purposes of this Act.

Power to
make
rules.

STATEMENT OF OBJECTS AND REASONS

In India there are people whose income is less than rupees one thousand per month and those whose income is unlimited with the result that there is no economic or social equality. Some people cannot afford to meet the expenses of their families and some have a problem as to how to spend the money which they have far in excess of their needs. This disparity in income has created frustration amongst the people of the country. Therefore, it is necessary to have a legislation wherein minimum and maximum income of a family is fixed.

Accordingly, it has been proposed in the Bill, in the first instance, to provide for a ceiling on wages of family of an employee of the Central Government and its undertakings and of private sector. A provision is also made for compulsory savings by such employees.

NEW DELHI;
August 12, 1991.

S. B. SIDNAL

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

STATEMENT OF OBJECTS AND REASONS

These days the commonman is in the grip of steep rise in the prices of essential commodities required for his daily use. The prices are rising so menacingly that it has become impossible for the commonman to have two time meals. The worst sufferers are daily wages workers, rickshaw pullers, hawkers, domestic workers and others doing petty jobs. For the common housewives managing of their monthly budget is becoming next to impossible. The situation is further aggravated when the essential commodities are not available in the market despite good harvests in the country. This is because some unscrupulous traders, brokers and middlemen resort to hoarding of essential commodities to create artificial scarcity and thereafter indulge in profiteering in these items for their own vested interests. As a result hoarding and profiteering in foodgrains, medicines and several other commodities which are essential to the daily life of the citizens have become common these days which is adversely affecting the commonman and the country as a whole. But in the absence of deterrent punishment under a specified Act for these offences, these cases are increasing. Therefore, to curb this menace it is felt that severe deterrent punishment should be prescribed for these offences.

This Bill seeks to achieve the above objects.

SURESH PACHOURI

(c) after paragraph 12B, the following paragraphs shall be inserted, namely:—

“12BB. Application of Acts of Parliament and of the Legislature of the State of Bihar to the autonomous district and autonomous regions in the State of Bihar—Notwithstanding anything in this Constitution,—

(a) if any provision of a law made by the District or a Regional Council in the State of Bihar with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Bihar with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Bihar, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Bihar shall prevail;

(b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Bihar, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect;

12BC. Application of Acts of Parliament and of the Legislature of the State of Madhya Pradesh to the autonomous districts and autonomous regions in the State of Madhya Pradesh—Notwithstanding anything in this Constitution,—

(a) if any provision of a law made by the District or a Regional Council in the State of Madhya Pradesh with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Madhya Pradesh with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Madhya Pradesh, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Madhya Pradesh shall prevail;

(b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in

the State of Madhya Pradesh, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect;

12BD Application of Acts of Parliament and of the Legislature of the State of Orissa to the autonomous districts and autonomous regions in the State of Orissa—Notwithstanding anything in this Constitution:—

(a) if any provision of a law made by the District or a regional Council in the State of Orissa with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 3 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Orissa with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Orissa, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Orissa shall prevail;

(b) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Orissa, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”;

(d) in paragraph 17, after the words “or Mizoram”, at both the places where they occur, the words “or Bihar or Madhya Pradesh or Orissa” shall be inserted;

(e) in paragraph 20, in sub-paragraph (1).—

(i) after the words, figures and letter “in Parts I, II, IIA and III”, the figures and letters “, IIIA, IIIB, IIIC” shall be inserted;

(ii) for the words “and the State of Mizoram”, the words “, the State of Mizoram, the State of Bihar, the State of Madhya Pradesh and the State of Orissa” shall be inserted;

(f) in the Table, after Part III and the entries relating thereto, the following Parts shall be inserted, namely:—

“PART IIIA

Chhotanagpur—Santhal Parganas area.

(d) "prescribed" means prescribed by rules made under this Act;

(e) "victim" means any person who is affected bodily or whose property, livestock, crop, orchard, field or machine and tools have been affected or damaged by any natural calamity.

3. If any person loses his life due to any natural calamity, the Government shall, on an application made in the prescribed form by his surviving next of kin, pay a minimum sum of rupees one lakh as financial assistance to such next of kin of the victim.

Financial assistance in case of death.

4. (1) If any person is injured due to any natural calamity, the Government shall give him such financial relief as may be prescribed according to the nature of injury received by him.

Financial relief and medical aid in case of injury.

(2) In addition to the financial relief referred to in sub-section (1) the victim shall also receive adequate medical aid from the Government for such period as may be prescribed.

5. Every person whose standing crops are damaged due to any natural calamity shall, on an application made in the prescribed form, be given adequate financial assistance by the Government in proportion to the loss caused to the crop by the natural calamity.

Financial assistance for damage to crops.

6. (1) The Government shall provide to every family, whose House has been destroyed by natural calamity, a dwelling house preferably at the same place.

Provision of housing in case of destruction of house and other immovable properties.

(2) If damage has been caused by natural calamity to cultivable or other land of any person the Government shall provide alternative land site to such person within a reasonable distance from his residence.

7. Every person losing his livestock due to natural calamity shall, on an application made on the prescribed form, be paid adequate financial assistance by the Government.

Financial assistance for loss of live-stock.

8. The Government or the Government of a State or Union Territory Administration, in whose territorial jurisdiction any person loses his life due to a natural calamity, shall provide a suitable job to one of the eligible dependents of the persons killed in the natural calamity.

Job for the dependent of person killed in natural calamity.

9. The Government shall, as soon as may be, appoint a Commissioner with such other staff as may be necessary for settling the claims and disbursing the financial assistance to the victims of natural calamity under this Act;

Commissioner to settle claims and disburse financial assistance.

Provided that the financial assistance shall be disbursed, as soon as may be, but not later than three months of the occurrence of the natural calamity.

Savings.

10. The provisions of this Act shall be addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to
remove
difficul-
ties.

11. If any difficulty arises in giving effect to the provisions of this Act, the Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of such difficulty.

Power to
make
rules.

12. The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

BILL NO. 173 OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1991. | Short title. |
| 2. Article 44 of the Constitution shall be omitted. | Omission of article 44. |
| 3. After Part IVA of the Constitution, the following Part shall be inserted, namely:— | Insertion of new Part IV B. |
| <p>“PART IVB
COMMON CIVIL LAW</p> | |
| 51B. The state shall secure for the citizens a uniform civil code throughout the territory of India within a period of three months of the passing of the Constitution (Amendment) Act, 1991.” | Uniform civil code for the citizens. |

STATEMENT OF OBJECTS AND REASONS

The framers of the Constitution included article 44 in the Constitution directing the State to “secure for the citizens a uniform civil code”. However, even after a lapse of more than 40 years it is seen that no step has been taken in that direction. The directive has merely remained a directive without any action. The situation has even worsened as the Government has got such laws enacted which go against the spirit of this provision. The Muslim Women (Protection of Rights on Divorce) Act, 1986, is the latest example in this respect.

Therefore, it is desirable that the constitution be amended so as to make it mandatory on the part of the Government to secure uniform civil code for the citizens.

Hence this Bill.

NEW DELHI;
September 24, 1991.

MORESHWAR SAVE

BILL No. 187 OF 1991

A Bill to repeal the Places of Worship (Special Provisions) Act, 1991.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Places of Worship (Special Provisions) Repeal Act, 1991.

Short
title.

2. The Places of Worship (Special Provisions) Act, 1991 is hereby repealed.

Repeal
of act
42 of 1991.

STATEMENT OF OBJECTS AND REASONS

Religion is something personal for every individual. Even the Constitution of India recognises this right of the common man to profess or practise any religion of his choice. The passing of the Places of Worship (Special Provisions) Act, 1991, is totally against the provisions of the Constitution and is a step in the wrong direction. The Act is not going to usher in communal harmony but on the other hand it has the seeds of communal disharmony. The law cannot change the belief of a person. If the people believe and the historical facts also confirm that a temple was situated at one place then by law the people cannot be made to believe that temple never existed there and instead something else was there. The State of J&K has been left out of the purview of the Act.

Therefore, the need of the hour is that the Act should be repealed.

Hence this Bill.

NEW DELHI;
November 5, 1991.

MORESHWAR SAVE

BILL No. 189 OF 1991

A Bill to provide for the issue of multi-purpose cards to the citizens of India and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizens (Issue of Multi-Purpose Card) Act, 1991.

Short
title and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act,—

Defini-
tions.

(a) “citizen” means the citizen of India as defined under the Citizenship Act, 1955 and who has attained eighteen years of age, and

(b) “prescribed” means prescribed by rules made under this Act.

3. (1) The Central Government shall, within six months from the date of coming into force of this Act, issue a multi-purpose card to every citizen.

Issue of
a multi-
purpose
card.

(2) The multi-purpose card issued under sub-section (1) shall contain the following information about the holder of the card, namely:—

- (a) full name in capital letters with latest photograph;
- (b) age with date of birth;
- (c) permanent address;
- (d) temporary address, if any;
- (e) occupation;
- (f) educational qualification; and
- (g) blood group.

(3) The multi-purpose card shall be prepared in such manner as may be prescribed.

Use of
the multi-
purpose
card.

4. The multi-purpose card shall be,—

- (a) the conclusive proof as to the age and date of birth of a citizen;
- (b) used for drawing ration from the Government ration shops; and
- (c) required to be produced by every citizen at the time of his casting of vote at any election.

Power to
make
rules.

5. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner in which publicity shall be given to the provisions of this Act so as to enable the citizens to get their multi-purpose cards prepared;
- (b) size and shape of the multi-purpose card, the photograph to be affixed and of the letters to be used therein; and
- (c) the authority or the authorities empowered to issue multi-purpose card,

STATEMENT OF OBJECTS AND REASONS

Although India is a vast country, the need to provide multi-purpose card to each and every citizen, despite tremendous labour and cost involved in this, cannot be sidelined. Almost all the developed countries and also some of the developing countries have already issued multi-purpose cards to their citizens which contain vital information as to the citizens.

The multi-purpose card can be put to varied uses. Moreover, in the interest of security and integrity of the country, the requirement of holding of multi-purpose card by the citizens is absolutely essential.

Hence this Bill.

NEW DELHI;

November 6, 1991.

MORESHWAR SAVE

FINANCIAL MEMORANDUM

Clause 3(1) of the Bill provides for issue of multi-purpose cards to the citizens. Clause 5(2) (a) provides for publicity to the provisions of the Act so as to enable the citizens to get their multi-purpose cards prepared. Major expenditure involved will be on getting the cards printed. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty lakhs per annum.

It is also likely to involve a non-recurring expenditure of about rupees twenty-five crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character

BILL No. 192 OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second year of the Republic of India as follows:—

- | | |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1991. | Short title. |
| 2. After article 29 of the Constitution, the following article shall be inserted, namely:— | Inser-
tion of
new
article
29A. |
| “29A. The State shall provide uniform, free and compulsory education upto primary school level to all citizens.” | Provi-
sion of
uniform,
free
and com-
pulsory
educa-
tion. |
| 3. Article 45 of the Constitution shall be omitted. | Omis-
sion of
article
45. |

STATEMENT OF OBJECTS AND REASONS

Even after so many years of independence, we have not been able to provide education to all citizens. Poor people cannot afford to send their children to school for want of means. It should be the responsibility of the Government to provide education to all citizens atleast up to primary school level. Although, there is a provision in the Constitution that all children until they attain the age of fourteen years shall be provided free and compulsory education by the State, it is not enforceable inasmuch as it is in the Directive Principles of State Policy.

Moreover, we find that there are different types of schools imparting education with varying standards. There should be uniformity in education so that all students get equal opportunity to pursue their career or in the matter of employment.

The Bill, accordingly, seeks to amend the Constitution with a view to including the right to uniform, free and compulsory education upto primary school level as a Fundamental Right. The object of the Bill will go a long way to eradicate illiteracy.

Hence this Bill.

NEW DELHI;

November 6, 1991.

MOHAN SINGH

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for uniform, free and compulsory primary education to all citizens. To implement the provisions of the Bill, some schools have to be opened and teachers have to be appointed in those schools. There will be some expenditure in respect of salaries and allowances of teachers, free supply of books and stationery to students, etc. As far as Union territories are concerned, the whole expenditure will be met by the Central Government. The State Governments will bear the expenditure from their respective Consolidated Funds in connection with the implementation of the provisions of the Bill although some financial assistance may be extended by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

It is estimated that an annual recurring expenditure of about rupees ten crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees twenty crores is also likely to be involved.

BILL No. 191 OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title.

1. This Act may be called Constitution (Amendment) Act, 1991.

Insertion of
new
article
51B.

2. In Part IVA of the Constitution, after article 51A, the following article shall be inserted, namely:—

Duty of
candi-
dates
and poli-
tical
parties
during
elec-
tions.

“51B. It shall be the duty of every political party and candidate, whether such candidate is set up by any political party or not, to ensure that votes are not sought in the name of any religion, religious symbol or by inciting religious feelings of the people in any election to the House of the People or Legislative Assembly of a State or Union territory or any local body.”.

STATEMENT OF OBJECTS AND REASONS

It has been observed that during elections some political parties and candidates are seeking votes in the name of religion or by inciting religious feelings. It will have an adverse effect on the society if such trend continues. It is, therefore, necessary to check such moves by amending the Constitution.

It is accordingly proposed to make it the fundamental duty of every political party and candidates, to ensure that votes are not sought by them in any election in the name of religion or by inciting religious feelings. Although the violation of this duty is not punishable under the existing system of Constitution, the political parties and candidates will be morally bound by such provision in the Constitution.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 6, 1991.

MOHAN SINGH

BILL No. 93 OF 1991

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows :—

1. This Act may be called the Constitution (Amendment) Act, 1991.

Short
title.

2. In the Tenth Schedule to the Constitution,—

Amend-
ment of
'Tenth
Schedule.

(i) in paragraph 6,—

(a) in sub-paragraph (1), the words “and his decision shall be final”, at both the places where they occur, shall be omitted; and

(b) sub-paragraph (2) shall be omitted; and

(ii) for paragraph 7, the following paragraph shall be substituted, namely :—

“7. Any member of a House, who has been disqualified from the membership of a House under this Schedule, if feels aggrieved by the procedure adopted for such disqualification may move the Supreme Court for the review of the decision disqualifying him under this Schedule”.

Power
of Supre-
me
Court
to review
decision
as to dis-
qualifi-
cation
on ground
of defec-
tion.

STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule of the Constitution provides for disqualification of members from the membership of either House of Parliament or Legislative Assembly of a State on ground of defection by the Presiding Officer of such House. Further, the Schedule bars the jurisdiction of all Courts in respect of any matter connected with the disqualification of a member of a House under Tenth Schedule by the Presiding Officer. However, a number of complaints challenging the decisions, regarding disqualification of members on ground of defection, of the Presiding Officers of many State Assemblies are being received on account of arbitrary manner in which decisions have been taken by them. Since the decision of the Presiding Officer is beyond the scope of judicial scrutiny, such complaints are bound to be there. It is, therefore, necessary that the Supreme Court shall be vested with powers to review the same.

Hence this Bill.

New Delhi;
November 6, 1961.

MOHAN SINGH

BILL NO. 188 OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1991.

Amend-
ment of
article
200.

2. In article 200 of the Constitution, for the words “the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:”, the words “the Governor shall as soon as possible and in any case not later than three months after the presentation to him of the Bill for assent, declare either that he assents to the Bill or that he withholds assent herefrom:” shall be substituted.

Amend-
ment of
article
201.

3. In article 201 of the Constitution, for the words “the President shall declare”, the words “the President shall, as soon as possible and in any case not later than three months, after the Bill has been reserved by the Governor for his consideration declare” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Articles 200 and 201 of the Constitution provide for assent to the Bills passed by the State Legislatures. The Bills passed by the State Legislatures are presented to the Governor for his assent and the Governor declares either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President. There are two infirmities in this process. One is that there is no time limit for the Governor for declaring his decision. The other is that there is general discretionary power with the Governor to reserve any Bill for the consideration of the President. Except in the second proviso to article 200 and clause (2) of article 288, there is no other specific provision in the Constitution which requires a Bill passed by a State Legislature to be reserved for the consideration of the President.

The experience during the last several years has shown firstly, that the Governor often takes unusually long time to declare his assent affecting the interests of the people; and secondly, the Governor may withhold his assent to the Bills and reserve for the consideration of the President any Bill whether covering a subject falling under the State List or the Concurrent List, which restrains the power that he, from expeditiously giving effect to the mandate obtained by it from the people. Instances are there which show that some Bills passed by the State Legislatures were not given Presidential assent even after two and a half years from the date of their receipt by the President. If a time limit is imposed within which the Governor and the President shall dispose of the matter, this kind of situation may be averted. At the same time, the Governor's right to reserve the Bills for the consideration of the President should be confined only to those Bills passed by a State Legislature which are required to be reserved for the assent of the President under the specific provisions of the Constitution. The general discretion given to the Governor at present in this regard under the existing provisions of article 200 should be withdrawn.

Hence this Bill.

NEW DELHI;

November 6, 1991.

CHITTA BASU.

BILL No. 190 OF 1991

A Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith.

Enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short
title,
extent
and
com-
mence-
ment.

1. (1) This Act may be called the Agricultural Workers Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "adolescent" means a person who has completed his fifteenth year of age has not completed his eighteenth year of age;

(b) "adult" means a person who has completed his eighteenth year of age;

(c) "appropriate Government" means in the case of a State, the State Government and in the case of a Union territory, the Central Government;

(d) "child" means a person who has not completed his fifteenth year of age;

(e) "agricultural dispute" means any dispute or difference between employers and employees or between employers and agricultural workers or between agricultural workers and agricultural workers or any dispute raised by a trade union or any recognised organisation which is connected with the employment or non-employment or the terms of employment or the conditions of service of any person.

Explanation.—Where any employer discharges, dismisses, retrenches or otherwise terminates the service of, or denies employment to, an agricultural worker, any dispute or difference between that agricultural worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to such a dispute.

(f) "agricultural land" means any land used for cultivation or for—

(i) farming, including the cultivation and tillage of soil;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting any horticultural commodity;

(iv) raising of livestock, bee-keeping or poultry farming;

(v) any practice performed on a farm as incidental to or in conjunction with the farm operations including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

(vi) fodder or thatching or grass or grazing cattle but does not include any plantation as defined in the Plantations Labour Act, 1951;

(g) "Agricultural Tribunals" means, in relation to any area the Agricultural Tribunal constituted under this Act for that area;

(h) "agricultural worker" means a person who follows one or more of the following agricultural occupations as a labourer on hire or in exchange:—

- (i) farming, including the cultivation and tillage of soil;
- (ii) dairy farming;
- (iii) production, cultivation, growing and harvesting of any horticultural commodity; and
- (iv) raising of livestock, bee-keeping or poultry farming;

(i) "Fund" means the Agricultural Workers' Fund established under this Act;

(j) "Inspector" means an Inspector appointed under this Act;

(k) "prescribed" means prescribed by the rules made under this Act;

(l) "Registration Officer" means a Registration Officer appointed under this Act;

(m) "Scheme" means the Agricultural Workers' Welfare Fund Scheme framed under this Act; and

(n) "Wages" means payment received in cash or in kind or both in cash and in kind, and shall include payment of share of the produce, where prevalent, and wages in kind shall include perquisites that a person receives customarily for the work performed such as food grains, cooked meals, fuel, tobacco, housing clothes, shoes and bonus.

CHAPTER II

AGRICULTURAL TRIBUNAL AND OFFICERS

Constitution of Agricultural Tribunals.

3. (1) The appropriate Government shall, by notification in the Official Gazette, constitute an Agricultural Tribunal for any area specified therein for performing the functions of the Agricultural Tribunal under this Act.

(2) The Agricultural Tribunal shall consist of one member having expert knowledge and experience in agriculture who shall be appointed by the appropriate Government.

Appointment of Registration Officers.

4. (1) The appropriate Government shall, by an order published in the Official Gazette,—

(a) appoint such officers as it thinks fit, to be the Registration Officers for the purposes of this Act; and

(b) define the local limits, within which a Registration Officer shall exercise the powers conferred on him by, or under, this Act.

(2) The Registration Officer shall exercise such powers, and perform such functions as may be prescribed.

Appointment of Conciliation Officers.

5. The appropriate Government shall by notification in the Official Gazette, appoint for any area specified therein any officer to be a Conciliation Officer for performing the functions of a Conciliation Officer under this Act.

6. (1) The appropriate Government shall, by notification in the Official Gazette, appoint duly qualified persons to be the Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers.

Appoint-
ment of
Ins-
pectors.

(2) Subject to such rules as may be made in this behalf by the appropriate Government, an Inspector may, within the local limits for which he is appointed,—

(a) conduct such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of an agricultural land;

(b) enter, inspect and examine any agricultural land or part thereof with such assistants, if any, being persons in the service of Government or local or other public authority as he thinks fit, at any reasonable time for the purposes of carrying out the purposes of this Act;

(c) examine any agricultural worker employed therein or require the production of any register or other document maintained in pursuance of this Act and take, on the spot or otherwise, statements of any person which he may consider necessary for carrying out the purposes of this Act; and

(d) exercise such other powers as may be prescribed.

7. Every employer shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or inquiry under this Act.

Facilities
to be
afforded
to Ins-
pectors.

CHAPTER III

SECURITY OF EMPLOYMENT AND WELFARE

8. (1) The employer shall not employ a new agricultural worker unless he has employed all the agricultural workers who had worked at any time during the previous agricultural season.

(2) In case of permanent employees preference shall be given to those who have worked earlier.

Prefer-
ence for
employ-
ment as
agri-
cultural
workers.

Explanation.—For the purposes of this sub-section, “permanent worker”, in relation to an employer means an agricultural worker whom that employer is bound to employ by custom or contract or who is otherwise eligible to work in the agricultural land of that employer.

(3) Notwithstanding anything contained in the foregoing provisions of this section, no employer shall be under an obligation to employ any agricultural worker—

(a) who does not offer himself for employment; or

(b) who is more than sixty-five years of age; or

(c) who is incapacitated and is unable to do the work.

Trade
Unions
of agri-
cultural
workers.

9. (1) A trade union of agricultural workers shall be registered and shall carry on its management and activities in accordance with its constitution and the laws applicable to trade unions.

Explanation I.—A trade union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating relations between employees and employers or between employees and employees or between employers and employers and includes any association of two or more trade unions.

Explanation II.—For the purposes of Explanation I, an employee includes any agricultural worker as defined in the Act.

(2) The subscription payable by the members of such a trade union shall not be less than twenty-five paise per month per member.

Estab-
lish-
ment of
Agri-
cultural
Workers'
Welfare
Fund.

10. (1) The appropriate Government may, by notification in the Official Gazette, frame a Scheme to be called the Agricultural Workers' Welfare Fund Scheme for the establishment of a Welfare Fund under this Act, and as soon as the Scheme is framed, a Fund shall be established in accordance with the provisions of this Act and the Scheme.

(2) The Fund shall vest in, and be administered by, a Board constituted under section 13.

(3) Subject to the provisions of this Act, the Scheme framed under sub-section (1) may provide for such matters as may be prescribed.

Contri-
bution
to the
Fund.

11. (1) The appropriate Government shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

(2) The employer shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

(3) Each agricultural worker shall also pay contribution to the Fund in such manner and at such rate as may be prescribed.

Power to
modify
the
Scheme.
Constitu-
tion of
Welfare
Fund
Board.

12. The appropriate Government may, by notification in the Official Gazette make addition to, amend or vary, the Scheme.

13. (1) The appropriate Government shall, by notification in the Official Gazette, constitute with effect from such date as may be specified in the notification, a Board to be called the Agricultural Workers' Welfare Fund Board for the administration of the Fund.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue or be sued.

(3) The Board shall consist of such number of members as the appropriate Government may determine and the members shall be chosen in such manner as may be prescribed:

Provided that the number of members representing the appropriate Government, the employers, and the agricultural workers shall be equal.

(4) The appropriate Government shall appoint one of the members of the Board to be its Chairman.

(5) The term of office of, and the manner of filling casual vacancies among, the members of the Board shall be such as may be prescribed.

(6) The names of the Chairman and the members of the Board, shall be published in the Official Gazette.

(7) The Board shall administer the Fund in such manner as may be specified in the Scheme.

14. (1) The appropriate Government may appoint such number of officers as it thinks fit for assisting the Board in the administration of the Fund.

Appoint-
ment of
officers
of the
Board.

(2) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties as may be prescribed.

15. The appropriate Government may give directions to the Board and such directions may include directions relating to the recruitment, conditions of service and training of its employees and the wages to be paid to the employees.

Direc-
tions by
the
Govern-
ment.

16. (1) The amount standing to the credit of any agricultural worker in the Fund shall not in any way be assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member.

Protec-
tion from
attach-
ment.

(2) Any amount standing to the credit of any agricultural worker in the Fund at the time of his death and payable to his nominees under the Scheme shall, subject to any deduction authorised by the Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of such worker.

(3) Any amount standing to the credit of a member in the Fund at the time of his ceasing to be an agricultural worker, whether on the ground that he is over sixty-five years of the age or on the ground that he is incapacitated and is unable to work or on any other ground, shall, subject to any deduction authorised by the Scheme, be paid to him and shall be free from any debt or other liability incurred by that member before his ceasing to be an agricultural worker.

17. No employer shall by reason only of his liability for the payment of any contribution to the Fund reduce, whether directly or indirectly, the wages of any agricultural worker to whom the Scheme applies.

Employer
not to
reduce
wages,
etc.

CHAPTER IV

HOURS OF WORK AND LIMITATIONS OF EMPLOYMENT AND WAGES

18. Save as otherwise expressly provided in this Act, no adult agricultural worker shall be required to work for more than eight hours, with half-an-hour rest in a day and no adolescent or child for more than six hours in a day inclusive of half-an-hour rest.

Hours of
work.

19. Where an agricultural worker works in any employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall, in respect of such overtime work, be entitled to wages at double the ordinary rate of wages.

Extra
wages
for over-
time
work.

Explanation.—The expression "ordinary rate of wages" means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale of foodgrains and other articles, as the person employed is, for the time being, entitled to but does not include a bonus.

Daily
intervals
for rest.

20. The period of work on each day shall be so fixed that no period shall exceed four hours and that no agricultural worker shall work for more than four hours before he has had an interval for rest of at least half an hour.

Harvest-
ing wage.

21. Wherever harvesting wages are prevalent, the wages shall be paid at the threshing floor on which the threshing takes place and no portion of the produce shall be removed from the threshing-floor without payment of the prescribed wages to the agricultural worker concerned.

Wages
payable
to agri-
cultural
workers.

22. (1) Every employer shall pay to every agricultural worker employed by him, for each day of work, the wages notified by the appropriate Government in the Official Gazette.

(2) The appropriate Government may, from time to time, by notification in the Official Gazette, fix the rate of wages of casual workers engaged on daily basis either for the whole State or the Union territory, as the case may be, or for any part thereof so as to make a distinction between the monthly and the daily wages.

Enforce-
ment of
pay-
ment of
wages.

23. (1) If any employer pays less than the wages notified in the Official Gazette or refuses to pay such wages to any agricultural worker, the agricultural worker, or an official of the trade union of which he is a member, may make an application to the Conciliation Officer for a direction under sub-section (2).

(2) On receipt of an application under sub-section (1), the Conciliation Officer shall, after giving the applicant and the employer an opportunity of being heard and after such inquiry, if any, as he may consider necessary, direct—

(a) in the case of a claim arising out of the payment of less than the wages notified in the Official Gazette, the payment to the agricultural workers of the amount by which the wages notified in the Official Gazette payable to him exceeds the amount actually paid by the employer;

(b) in the case of a claim arising out of non-payment of the wages notified in the Official Gazette, the payment of the amount of wages to the agricultural worker.

(3) If as a result of a direction under sub-section (2) any amount of the wages notified in the Official Gazette, becomes payable to an agricultural worker, the Conciliation Officer may recover that amount from the employer concerned and if such recovery is not possible, the Conciliation Officer shall make a report to the Collector or the Deputy Commissioner, as the case may be, specifying the full particulars regarding the amount due to the agricultural workers concerned and on receipt of such report, the Collector or the Deputy Commissioner, as

the case may be, shall proceed to recover the same from the employer concerned as if it were an arrear of public revenue on land and the time limit in such cases shall be fixed by the State Government.

(4) The Conciliation Officer shall have such powers, as may be prescribed, to effect the payment of the wages, notified in the Official Gazette, to the agricultural worker.

CHAPTER V

DISPUTES

24. (1) Where an agricultural dispute exists or is apprehended, the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things, as he thinks fit, for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

Settle-
ment of
agricul-
tural
disputes.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the Labour Commissioner together with a memorandum of settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the District Collector or the Deputy Commissioner, as the case may be, a full report setting forth the steps taken by him for ascertaining the facts and circumstances, and the reasons on account of which, in his opinion a settlement could not be arrived at:

Provided that in a case where the agricultural dispute relates to an agricultural land situated within the local limits of more than one revenue district, the Conciliation Officer shall send the report to the District Collector or the Deputy Commissioner, as the case may be, in whose jurisdiction the major portion of such land is situated.

(4) If on a consideration of the report referred to in sub-section (3), the District Collector or the Deputy Commissioner, as the case may be, is satisfied that there is a case for reference to an Agricultural Tribunal, he may, by order in writing, refer the agricultural dispute to the said Tribunal for adjudication and where the District Collector or the Deputy Commissioner, as the case may be, does not make such a reference, he shall record and communicate to the parties concerned the reasons therefor.

(5) Where an agricultural dispute has been referred to an Agricultural Tribunal under sub-section (4), the Tribunal shall hold its proceedings expeditiously and shall, as soon as practicable after the conclusion of the proceedings, but not later than thirty days from the date of receipt of the reference by the Tribunal, submit its award to the District Collector or the Deputy Commissioner, as the case may be.

(6) The District Collector or the Deputy Commissioner, as the case may be, shall, within a period of fifteen days from the date of receipt of the award referred to in sub-section (5) cause the same to be published in his office and in the office of the Agricultural Tribunal in such

manner as may be prescribed and shall also forward copies of the award to the parties concerned.

(7) An award referred to in sub-section (5) shall, subject to any order of the appropriate Government under section 26, become enforceable on the expiry of ten days from the date of its publication in the manner provided in sub-section (6).

(8) Every memorandum of settlement referred to in sub-section (2) and, subject to any order of the appropriate Government under section 26, every award of an Agricultural Tribunal shall be final and shall be given effect to by the parties to the agricultural dispute.

Appeal.

25. An appeal shall lie to the Agricultural Tribunal against any order passed by a Conciliation Officer under section 24 within a period of thirty days from the date of the order appealed against and the decision of the Agricultural Tribunal on such appeal shall be final.

Refer-
ence of
dispute
by Gov-
ernment.

26. (1) Notwithstanding anything contained in section 24, where any agricultural dispute exists or is apprehended, the appropriate Government may, by order in writing and for reasons to be stated therein,—

(a) refer the dispute to the Agricultural Tribunal constituted for the area in which the dispute exists or is apprehended for adjudication; or

(b) decide the dispute itself and pass an award.

(2) Where a dispute is referred to an Agricultural Tribunal under clause (a) of sub-section (1), the provisions of sub-section (5), (6), (7) and (8) of section 24 shall apply as if the reference to the Tribunal were made by the District Collector or the Deputy Commissioner, as the case may be, under sub-section (4) of that section.

(3) The appropriate Government shall cause every award passed by it under clause (b) of sub-section (1) to be published in the Official Gazette and in such other manner as may be prescribed.

(4) An award referred to in sub-section (3) shall be final, shall be given effect to by the parties to the agricultural dispute and shall be enforceable on the expiry of five days from the date of its publication in the Official Gazette.

Reference
of dispute
to Na-
tional
Commis-
sion for
Adjudica-
tion.

27. (1) Where the Central Government is of the opinion on a request made in that behalf by the appropriate Government that any agricultural dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that more than one State is likely to be interested in or affected by such dispute, and that the dispute should be adjudicated by a National Commission which shall be constituted by the Central Government by notification in the Official Gazette with the consent of two or more States in the manner and on such conditions as may be prescribed, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute by order, refer the dispute or any matter connected therewith, or relevant thereto to a National Commission for Adjudication.

(2) No dispute shall be referred for adjudication under this section where the parties to the dispute agree to refer the dispute for arbitration.

CHAPTER VI

PENALTIES AND PROCEDURE

28. If any person—

Penalty.

(a) contravenes any of the provisions of this Act or any rule made thereunder; or

(b) fails to comply with the direction given or requisition made, if any, to him; or

(c) knowingly makes, or causes to be made, any false statement or representation;

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to rupees five hundred or with both.

29. (1) If an offence is committed under this Act by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals whether incorporated or not; and

(b) "director" in relation to a firm, means a partner in the firm.

30. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by, or under the authority of, the appropriate Government.

Cogni-
zance of
offence.

(2) No court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

Enhanced
penalty
for
second
and
subse-
quent
con-
viction.

31. If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving contravention of the same provisions, he shall be punishable, on a subsequent conviction, with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees:

Provided that for the purpose of this section, no cognizance shall be taken of any conviction made more than five years before the commission of the offence for which punishment is given.

Limita-
tion of
prose-
cutions.

32. No court shall take cognizance of an offence punishable under this Act unless the complaint is made within six months from the date on which the alleged commission of the offence comes to knowledge of the appropriate Government or an Officer authorised in that behalf.

Constitu-
tion of
Employ-
ment
Guarant-
tee
Board.

33. (1) The appropriate Government shall set up an Employment Guarantee Board, tripartite in character, having representatives of the appropriate Government, employers and agricultural workers to super-
wise the Employment Guarantee Scheme and Social Security Scheme.

(2) The Chairman of the Board shall be nominated by the appropriate Government.

(3) The Board shall plan alternative or part-time employment and self employment during lean seasons and natural calamities.

CHAPTER VII

MISCELLANEOUS

Register
of agri-
cultural
workers.

34. Every registering authority shall prepare and maintain a Register of agricultural workers residing within the jurisdiction of that authority in such manner, and with such particulars, as may be prescribed.

Mainte-
nance of
registers
and
records
by the
employer.

35. Every employer shall maintain such registers and records containing such particulars as may be prescribed.

Bar of
jurisdic-
tion of
civil
courts.

36. No civil court shall entertain any suit to set aside or modify any order or decision of any Tribunal, Authority or officer under this Act.

Powers to
take
evidence,
oath,
etc.

37. (1) Any Tribunal, Authority or officer, exercising powers under this Act, shall have the same powers as vested in Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery any production of documents;

(c) receiving evidence;

- (d) issuing commission for the examination of witnesses; and
- (e) such other matters as may be prescribed.

45 of 1860.

(2) Any proceeding before a Tribunal, Authority or officer under this Act, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Code of Civil Procedure, 1908 and for the purposes of section 196 of the Indian Penal Code.

38. (1) Where any money is due to an agricultural worker from an employer under this Act, the agricultural worker himself, or any other person authorised by him in writing in that behalf, or in the case of the death of the agricultural worker, his assignees or heirs, may make an application to the District Collector or Deputy Commissioner, as the case may be, for the recovery of the money due to him and if the District Collector or the Deputy Commissioner is satisfied that the money is so due he shall proceed to recover the amount of that money as if it were an arrear of public revenue due on land:

Recovery
of money
due from
employer.

Provided that every such application shall be made within one year from the date on which the money became due to the agricultural worker from the employer.

(2) Any amount of money due from the employer as contribution to the Fund or a Scheme under this Act shall, if the amount is in arrear, be recovered as if it were an arrear of public revenue due on land.

39. The provisions of this Act and the Scheme and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this section:

Act to
have effect
not with-
standing
anything
inconsis-
tent in
any
other law.

Provided that where under any such award, agreement, contract of service, custom or otherwise, any agricultural worker was enjoying immediately before the coming into force of this section benefits in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act, the agricultural worker shall be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

40. Nothing contained in this Act save sections 18, 19, 20, 21, 23, 25, 26 and 39, shall apply in relation to a marginal farmer who does not hold more land than one irrigated hectare or two unirrigated hectares.

Act not
to apply
to mar-
ginal
farmers.

45 of 1860.

41. Every member of the Board set up under sections 13 and 33 and every officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members
of the
Board,
etc. to be
public
servants.

Protection
against
action
taken in
good
faith.

42. No suit, prosecution or other legal proceedings shall lie against the appropriate Government or any Tribunal, Authority or Officer in respect of anything which is done in good faith or intended to be done in pursuance of this Act or the Scheme or any rule or order made under this Act.

Prohibition
of
unfair
labour
practices.

43. An employer shall not support or encourage any unfair labour practice resulting in interference with the right of agricultural workers to enrol or continue as union members, discrimination restraint or coercion against any employee because of recognised activity of trade union, and victimization of any employee and abuse of authority in any form.

Power to
make
rules.

44. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the form and manner in which application for registering agricultural workers may be made;

(b) the wage rates and overtime rates which an agricultural worker is entitled to under this Act;

(c) the form of registers and records to be maintained;

(d) the powers of the Conciliation Officer;

(e) the procedure to be followed by the Conciliation Officer and the Agricultural Tribunal;

(f) the fees to be paid for applications and appeals under this Act;

(g) the manner of estimating the cash value of the wages paid in kind;

(h) the procedure to be followed by appropriate Government under sections 24 and 25; and

(i) any other matter which has to be, or may be, prescribed under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The problems of agricultural labour have been under consideration of the Government for quite some time. Various All-India Agricultural Labour Enquiries, the Rural Labour Enquiry and the All-India Seminar on Agricultural Labour in 1965 highlighted the problems of agricultural Labour *e.g.* unemployment, under-employment, low wages, lack of amenities, inadequate housing, lack of organisation; resulting in a low standard of living.

Keeping in view the fact that India is a predominantly rural country, with nearly 80 per cent of its population living in rural areas, the problems of agricultural workers assume greater importance because of the sheer number involved. According to the 1971 Census, agricultural labourers in India numbered 47.48 millions against 31.52 millions in 1961. The Rural Labour Enquiry 1974-75, estimated that agricultural labour households form about 86 per cent of the rural labour households and that the total population covered in the category of agricultural labour was 335 millions, of which about half would be wage earners. The average earnings of wages per man-day for agricultural labour households, as revealed by the 25th round of the National Sample Survey, focus the abysmal poverty of the agricultural workers of our country.

The following laws relate to various aspects of organised and unorganised labour applicable throughout India to a limited extent:—

- (1) Minimum Wages Act, 1948
- (2) Payment of Wages Act, 1936
- (3) Employees' Provident Fund and Miscellaneous Provisions Act, 1952
- (4) Payment of Gratuity Act, 1972
- (5) Industrial Disputes Act, 1947
- (6) The Trade Union Act, 1926
- (7) Workmen's Compensation Act, 1923
- (8) Employees' State Insurance Act, 1948
- (9) Maternity Benefit Act, 1961.

There is, however, no legislation with totality of approach to the problems of agricultural labour, barring the Kerala Agricultural Workers Act, 1974 which is a comprehensive legislation for agricultural workers in Kerala. At present, the main Central Legislation to safeguard the interests of agricultural workers is the Minimum Wages Act, 1948. States and Union territories responsible for the enforcement of this Act have been urged, from time to time, to ensure strict enforcement of the notified minimum wages by strengthening the administrative set up utilising the staff of other Departments *e.g.* Revenue, Agriculture Rural Development etc., increasing the number of claims authorities and by

giving wide publicity to the notified wages. Though some progress has been made, there are, however, frequent reports about the non-payment of notified minimum wages to agricultural workers.

The question of a Central legislation on the conditions of living and of work of agricultural workers was under consideration of the Government of India for quite some time. As early as May 1975, the second meeting of the Standing Committee on Agricultural Labour underlined the need for a Central legislation on the subject. In July, 1975, the 26th Session of the Labour Ministers' Conference commended the Kerala Agricultural Workers' Act, 1974 and suggested adoption of a uniform Central legislation on the subject.

In view of the large number of agricultural workers in India, whose conditions are at present not adequately safeguarded by the existing legislation, enactment of a Central legislation would go a long way in ameliorating the problem of agricultural labour to a considerable extent.

Hence this Bill.

NEW DELHI;
November 6, 1991.

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of Agricultural Tribunals. Clause 4 provides for appointment of Registration officers. Clause 5 provides for appointment of conciliation officers. Clause 6 provides for the appointment of Inspectors. Clause 10 provides for framing of a Scheme, called Agricultural Workers' Welfare Fund Scheme. Clause 11 provides for the contribution to fund. Clause 13 provides for the constitution of the Agricultural Workers' Welfare Fund Board. Clause 14 provides for the appointment of officers of the Board. Clause 33 provides for the setting up of Employment Guarantee Boards.

The expenditure involved in these matters will be met from the Consolidated Fund of the States. Expenditure in respect of Union territories will be incurred from the Consolidated Fund of India. A sum of rupees fifteen lakhs is, therefore, likely to be involved as annual recurring expenditure from the Consolidated Fund of India. And, in addition, a sum of rupees five lakhs is also likely to be involved on account of non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 empowers the Central Government to make rules for carrying out the purposes of this Bill. The matters in respect of which rules may be made will relate to administrative details only and as such the delegation of legislative powers is, of a normal character.

BILL NO. 185 OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1991.

Inser-
tion of
new
articles
281A and
281B.

2. After article 281 of the Constitution, the following articles shall be inserted, namely:—

State
Finance
Com-
mission.

“281A. (1) The Governor shall, within one year from the commencement of the Constitution (Amendment) Act, 1991 and thereafter at the expiration of every fifth year, by order constitute a State Finance Commission which shall consist of a Chairman and three other members to be appointed by the Governor.

(2) The Legislature of the State may by law determine the qualifications and other conditions for appointment as members of the State Finance Commission and the manner in which they shall be selected.

(3) It shall be the duty of the State Finance Commission to make recommendation to the Governor as to—

(a) the distribution of State funds between the departments of the State Government and the Municipality, Corporation and Panchayati Raj institutions namely, Zila Parishads, Gram Panchayats and Gram Sabhas; and

(b) the principles which should govern the distribution of funds referred to in sub-clause (a).

281B. The Governor shall cause every recommendation made by the State Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly or each House of the Legislature of the State, as the case may be.”

Recommendations of the State Finance Commission.

STATEMENT OF OBJECTS AND REASONS

To ensure mass participation in the development process, the decentralisation of powers at all levels is imperative. The decentralisation of administrative powers, which ensures the broadcast participation, must be matched with the resources allocation at all levels. Experience has shown that local-self Government institutions, as existing now, can not discharge their assigned responsibilities with the resources placed at their disposal.

In order to obviate these loopholes in the existing system of resources distribution to the local-self Government Institutions, the need to design a mechanism or agency for equitable distribution of State resources is being felt. State Finance Commissions can become such instruments. An enabling provision in the Constitution for this purpose is, therefore, necessary.

Hence this Bill.

NEW DELHI;
November 6, 1991.

CHITTA BASU

K. C. RASTOGI
Secretary-General.